



TEXAS PROBATION ASSOCIATION

Correctional Management Institute of Texas
George J. Beto Criminal Justice Center
Sam Houston State University
Huntsville, TX 77341-2296
(936) 294-1640 (936) 294-1671 (fax)

August 13, 2021

Dear Representative / Senator:

In most jurisdictions across Texas, Community Supervision & Corrections Departments (CSCD) are tasked with providing bond supervision services to those released from jail on bond with conditions. As such, the Texas Probation Association (TPA) has a keen interest in HB 12 / SB 6 regarding bail reform, and the Association is supportive of your efforts. However, there exists a concern that we hope that you will consider.

Currently CSCDs do not receive ANY state funding to provide pretrial services related to bail/bond. Supervision for these cases may include GPS, ignition interlock, drug/alcohol monitoring, curfew checks, or other conditions related to victim safety. These defendants are often charged with serious assaultive offenses and have posted a surety bond for release, and their supervision can be quite extensive. There are only two options for CSCDs to obtain the necessary funding to properly operate a bond supervision program:

- 1) The county commissioners have to authorize the funding of the program, or
- 2) The CSCD has to rely on the collection of a monthly fee from the defendant, who often times is indigent.

With bond supervision caseloads increasing statewide, coupled with the fact that the COVID-19 pandemic has had such a profound impact on the economy, it is becoming increasingly difficult for those CSCDs who have to rely on a monthly fee from the defendant to maximize public safety. The TPA believes that bond supervision is a county function and should be wholly funded by the county as the release from county jail represents a substantial cost savings for them. At this time, for CSCDs that oversee the county's bond supervision program, only approximately seven receive full funding for the program from the county(ies).

The TPA recommends that the final bill passed makes it clear in statute that there are two options for bond supervision:

- 1) The county creates a personal bond office and they provide all bond supervision services. The statute will also need to clarify that a county personal bond office can supervise any type of bond – not just a personal bond, or
- 2) If the county chooses to have the CSCD supervise the bond program, the county will be responsible for providing the funding to the CSCD for these services. This will also require an amendment to Chapter 76 of the Government Code.

Thank you for your favorable consideration and for your service to the State of Texas.

Sincerely,

Karma Chambless, President
Texas Probation Association

Lauren Rosales, The Bail Project	August 21, 2021	Opposition to SB6, SJR3
----------------------------------	-----------------	-------------------------

THE BAIL PROJECT

WRITTEN TESTIMONY PRESENTED TO THE HOUSE SELECT COMMITTEE ON CONSTITUTIONAL RIGHTS AND REMEDIES TEXAS HOUSE OF REPRESENTATIVES 2ND SPECIAL SESSION

August 21, 2021, 9:00 AM CST

Good morning, Chair Ashby, Vice Chair Thompson, and Members of the Committee. My name is Lauren Rosales, and I am the Texas Operations Manager for The Bail Project. I appear before the Committee today in opposition to SB6 and SJR3.

The Bail Project stands witness to egregious injustices caused when people presumed innocent under the law are locked behind bars simply because they cannot afford the price of liberty. Our system is flawed when a person who is a danger to the community can buy their freedom but a poor person cannot.

Charitable bail organizations are a community response to the humanitarian crisis of cash bail. We support low income people, primarily people of color, when they are at risk of losing everything. We should not be a target for government overreach.

In the sixteen months since we began serving in Texas, we have bailed out nearly 600 people in Bexar, Harris, Hays, Smith, and Travis Counties. For our clients, we pay the entire bail amount that is ordered by a judge who has deemed the amount appropriate to guarantee an accused person's safe release. Cash bail payments, and our organization's operating costs, come at no cost to our clients, taxpayers, the State of Texas or its counties, which are spending \$1.9 billion to operate local jails.¹

The Bail Project's intervention goes beyond paying bail. To help facilitate court appearance, we provide court reminders, rides to and from court, and referrals to community-based services. Nationally, our clients appear at 90 percent of their court hearings.

We post bail in our organization's name. That information is on file with the court and available based on local government practices. The Bail Project is regulated by federal and state law, with reporting and oversight requirements from the Texas Secretary of State, IRS, Texas Comptroller of Public Accounts, and the Texas Attorney General.

Under SB6's proposed regulations, family members, churches, and the \$2 billion for-profit bail bond industry could bail out the same individual whom charitable bail funds could not. This bill is unfair and discriminatory on its face because it treats our money differently. The Bail Project opposes any such effort. Freedom should be free. But until it is: our money is the same as theirs. Thank you.

¹ Brown, Tim. "Unfunded mandate costs mount for Texas counties" *Texas Association of Counties*. Accessed on July 6, 2021. Accessible at: <https://www.county.org/County-Magazine/March-April-2021/Trends-in-jail-inmate-populations>



August 10, 2021

Re: SB 6 and HB 12 will make your county vulnerable to litigation

Dear County Judge and Commissioners,

We write to share concern about legislation which may put your county in the position of choosing between following state law and following the U.S. Constitution.

Senate Bill 6 (SB 6) by Senator Huffman and House Bill 12 (HB 12) by Representative Smith have been filed during the second special session of the 87th Legislature. These identical bills make counties across Texas vulnerable to litigation at significant cost to taxpayers. They conflict with bedrock constitutional principles that protect the right to pretrial liberty and the presumption of innocence.

Specifically, sections 6 and 7 of the bills categorically eliminate the possibility of personal bonds for large numbers of accused persons. Because personal bonds are the only path to release from jail for people without access to money, sections 6 and 7 prohibit judges from releasing large categories of people who cannot afford to pay bail. This infringement on judicial discretion will not make communities safer. It will, however, violate the rights of tens of thousands of people -- disproportionately poor, Black and brown people -- every year.

Should these bills pass as filed, many Texans will have no way to secure their release from jail. Many people without access to money will remain locked up because of their inability to afford bail. At the same time, those with financial resources will purchase their freedom regardless of how dangerous they are. This wealth-based detention scheme would undermine safety and -- as the Fifth Circuit already held in *ODonnell* -- violate the U.S. Constitution.

When people are detained pretrial, they are more likely to plead guilty -- even if they are innocent -- just to get out of jail. They also are more likely to be sentenced to jail or prison, and their sentences are longer. They have a harder time working with counsel to defend against the government's accusations. All of these negative effects are less likely to occur if a person can afford to pay to get out of jail.

If you share our concern about these bills and how they may impact your county and constituents, we urge you to contact the bill authors as well as your state senators and representatives and urge them to strike sections 6 and 7 of SB 6 and HB 12.

Thank you for your consideration.

Sincerely,



Adriana Piñon
Senior Staff Attorney
ACLU of Texas



Elizabeth Rossi
Senior Attorney
Civil Rights Corps



Amanda Woog
Executive Director
Texas Fair Defense Project

**COUNTY JUDGES & COMMISSIONERS
ASSOCIATION OF TEXAS
402 WEST 12TH STREET
AUSTIN, TEXAS 78701**



OFFICERS:

President
BEN ZELLER
Victoria County Judge
101 N. Bridge Street, Room 102
Victoria, Texas 77901
(361) 582-5871
(361) 573-7585 - Fax

800-733-0699
512-482-0701
512-480-0902 FAX
www.cjcat.org

S. B. 6 - Bail Bond Reform

First Vice President
RICK BAILEY
Johnson County Commissioner
3400 FM 1434
Cleburne, Texas 76033
(817) 648-1356

Second Vice President
KIM HALFMANN
Glasscock County Judge
P.O. Box 67
Garden City, Texas 79739-0067
(432) 354-2639

Past President
CHUCK STATLER
Taylor County Commissioner
300 Oak Street, Suite 204
Abilene, Texas 79602
(325) 669-6266
(325) 674-1365 - Fax

EXECUTIVE BOARD:

North and East Texas
PAUL COTHREN
Cass County Commissioner

South Texas
JEN CROWNOVER
Comal County Commissioner

West Texas
JOHN NANNY
Irion County Commissioner

GENERAL COUNSEL:

JAMES P. ALLISON
Allison, Bass & Magee, L.L.P.
402 W. 12th Street
Austin, Texas 78701
1-800-733-0699
(512) 482-0701
(512) 480-0902 - Fax
j.allison@allison-bass.com

EDUCATION COMMITTEE:

Chairman:
DEBBIE G. INGALSBE
Hays County Commissioner
111 E. San Antonio Street, Suite 304
San Marcos, Texas 78666
(512) 393-2243
(512) 393-7718 - Fax

LEGISLATIVE COMMITTEE:

Chairman:
ROBERT JOHNSTON
Anderson County Judge
703 North Mallard Street, Suite 101
Palestine, Texas 75801
(903) 723-7406
(903) 723-7494 - Fax

Chairman Ashby and Members of the House Select Committee on Constitutional Rights:

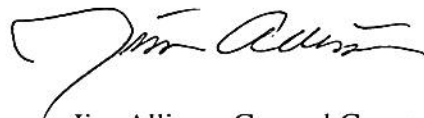
During the First Called Session, the County Judges and Commissioners Association of Texas submitted proposed revisions to the introduced version of S.B. 6. Some of these suggestions have been included in the Senate-passed version of S.B. 6 for the Second Called Session. We appreciate these changes. However, the Senate version continues to impose unnecessary costs on Texas property taxpayers. Please consider the following proposed revisions in the attached redlined changes to the latest Senate version of S.B. 6.

These changes are designed to 1) maintain the significant enhancements of public safety in S.B. 6 by eliminating personal bond for certain offenses and ensuring a thorough review of a defendant's background during the bail process; 2) avoid unnecessary delays and local taxpayer expense in the processing of non-violent misdemeanors; and 3) eliminate potential sources of federal litigation and unintended consequences. These suggestions are intended to improve the worthy public policy objectives of the bill while avoiding unnecessary local taxpayer expense. A brief summary of these changes are as follows:

1. In Section 5 (p. 6 of the attached redlined Word version), revise new Art. 17.021(c) to require that the OCA provide necessary equipment and support to access the new public safety report system. While there will likely be further unidentified costs to local county taxpayers, this cost is clearly imposed by the provisions of this bill and should be absorbed by the state.
2. Also in Section 5 (p. 7), revise new Art. 17.022(a) to only mandate the use of the public safety report for felony offenses. While the report would still be available for misdemeanors, many misdemeanor offenders may be quickly processed and bonded under present circumstances without the report, saving taxpayer funds without compromising public safety. Holding these minor offenders awaiting a report would impose unnecessary delay and taxpayer cost.
3. Also in Section 4 (p. 9), revise new Art. 17.023(a) to only apply to magistrates who set bail for felony offenses. While the training program should be available to all magistrates, the specific magistrate qualifications should be reserved for those setting bail for more serious offenses.

4. Also in Section 4 (p. 15-16), new Art. 17.028 currently provides a mandatory bail hearing process, regardless of the level of offense. This is not constitutionally required and would impose considerable local taxpayer expense. Please revise new Art. 17.028(h) to eliminate the required evidentiary hearing for appeals from a bond schedule; instead, utilize the information form to permit the defendant to submit written personal financial information for evaluation by a magistrate with a written decision rendered within 48 hours of the submission of the information form. This will satisfy due process requirements with necessitating appointment of counsel, court reporters, and additional prosecutors at local taxpayer expense.
5. In Section 10 (p. 21), revise new Art. 17.20(b) to add "if available" to the use of the public safety report when a peace officer is setting bail for misdemeanors. Otherwise, local jurisdictions will not be able to implement local "cite and release" programs or other expedited processing for misdemeanors.

These suggestions will complement the major policy provisions of S.B. 6, including establishing offenses that are not eligible for personal bond. They are intended to enhance the focus on public safety for serious offenses while avoiding unnecessary taxpayer expense and continuing the ability to expedite processing of minor offenses. Since the provisions of S.B. 6 will become effective after county budgets and tax rates are adopted, please avoid new requirements that may increase local expenditures. Please let me know if we can provide any further information.

A handwritten signature in black ink, appearing to read "Jim Allison", with a stylized, flowing script.

Jim Allison, General Counsel
County Judges and Commissioners
Association of Texas